

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

USDC DNJ
DOCUMENT
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DATE FILED: August 17, 2020

IN RE: COURT OPERATIONS UNDER THE :
EXIGENT CIRCUMSTANCES CREATED :
BY COVID-19 : EXTENSION OF
: STANDING ORDER 2020-12

WHEREAS, a National Emergency has been declared and the Governor of the State of New Jersey has also declared a State of Emergency and a Public Health Emergency in response to the coronavirus (COVID-19) pandemic; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) and other public health authorities have advised taking precautions to reduce the possibility of exposure to COVID-19 and to slow the spread of the disease; and

WHEREAS, in response to government policy, CDC guidelines and public health advancements, the United States District Court for the District of New Jersey (“Court”) has adopted the District of New Jersey COVID-19 Recovery Guidelines (“Recovery Guidelines”), providing for a phased approach to reconstituting operations, and is currently in Phase II; and

WHEREAS, Phase II of the Recovery Guidelines, requiring the wearing of masks or facial coverings, the maintenance of six feet of physical distance from others (“social distancing”), elevator occupancy limited to one person at a time, contact tracing procedures and the holding of all non-emergent proceedings by video and teleconference (except for grand jury proceedings), has been extended until September 30, 2020, with the possibility of further extension, if necessary; and

WHEREAS, as New Jersey and other states have begun to reopen, the number of new cases of COVID-19 has started to increase, and government officials, the CDC and other health authorities continue to stress the need for precautions, including maintaining social distancing, avoiding public transportation when possible, limiting nonessential travel, working from home, avoiding large gatherings, wearing face masks or coverings in public, and 14-day quarantining after the contraction of, or suspected exposure to, COVID-19; and

WHEREAS, jury selection in this District frequently involves large jury venire pools, along with many individuals required to travel extensively; and

WHEREAS, New Jersey public school education this fall may be conducted remotely, at least in part, with an all-remote option for parents, thereby impacting the availability of parents summoned for jury service; and

WHEREAS, the Court continues to monitor its operations to identify measures that will help slow the spread of COVID-19 by minimizing contact between persons, while at

the same time, preserving its core mission of serving the public through the fair and impartial administration of justice;

NOW, THEREFORE, in order to further public health and safety, the health and safety of Court personnel, counsel, litigants, other case participants, jurors, security personnel and the general public, and in order to reduce the number of gatherings necessarily attendant to trial jury selection in all vicinages of this Court, and in order to minimize travel by participants in Court proceedings (particularly travel by public conveyance), the Court finds it necessary to extend the continuances and period of exclusion set forth in Standing Order 2020-12, due to expire on August 31, 2020, and issues the following:

1. The Court ORDERS that all civil and criminal jury selections and jury trials shall be continued to September 30, 2020. The Court may issue further Orders or Extensions concerning future general continuances of any matters as may be deemed necessary and appropriate. All jury selections and trials impacted by this Extension will be reset by further Order of the assigned judicial officer.

2. Regarding criminal matters, the Court recognizes the trial, procedural and substantive rights of criminal litigants and particularly, their right to a speedy and public trial under the Sixth Amendment (and the particular application of that right in cases involving defendants who are detained pending trial). However, the Court also recognizes the compelling public health and safety issues outlined in this Extension of Standing Order 2020-12, and therefore, pursuant to 18 U.S.C. §3161(h)(7)(A), finds that the ends of justice served by taking such action materially outweigh the best interests of the public and the parties in a speedy trial. Accordingly, the Court ORDERS that the time period of March 16, 2020 through September 30, 2020 shall be “excluded time” under the Speedy Trial Act. Having considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B), the Court finds specifically, that the failure to grant such continuance would be likely to make a continuation of proceedings impossible, or result in a miscarriage of justice. Such exclusion is necessary to assure that in cases going to trial, there is a full, unhindered, continuously serving jury venire and seated jury in every case, which is central to the sound administration of justice. Such exclusion of time is also necessary in cases not yet set for trial in order to address the reasonably anticipated difficulties in defense counsel communicating or visiting with clients (including those detained in locales and facilities under a declared state of emergency), and the inherent delay in the scheduling of further trials as a consequence of the exclusion period herein. The Court may by further Order or Extension extend the period of exclusion as circumstances may warrant, and the assigned judicial officer may, by Order, also do so in connection with any specific proceeding.

3. As for criminal cases commenced by complaint, the Court ORDERS that the 30-day period established by 18 U.S.C. § 3161(b), during which the United States must either obtain an indictment or file an information, is continued through September 30, 2020. Again, recognizing the public health and safety issues stated herein, the Court determines that the ends of justice served by granting such a continuance outweigh the best interest of the public and each defendant in a speedy indictment and a speedy trial in a criminal case. Accordingly, the Court also ORDERS that the time period of March 16, 2020 through September 30, 2020 shall be “excluded time” in all criminal proceedings in this District under the Speedy Trial Act, including

those proceedings commenced by complaint. The Court further ORDERS that such continuance shall also apply to any time limits established by the Interstate Agreement on Detainers, 18 U.S.C. app. 2, § 2 (art. III).

4. Finding it necessary to also extend the restriction on the empanelment of new grand juries, the Court ORDERS that no new grand juries shall be empaneled until the Court orders otherwise. Sitting grand juries in each vicinage of the Court are authorized to continue to meet.

5. The Court ORDERS that the prior continuance of Central Violations Bureau (CVB) proceedings through August 19, 2020 is NOT EXTENDED, and that such proceedings shall be conducted, at the discretion of the Magistrate Judge, via video and teleconference, until the Court orders otherwise.

6. The Court further ORDERS that except as modified herein, the provisions of Standing Order 2020-12 remain in full force and effect, until the Court orders otherwise.

7. The Court ORDERS that additional Orders or Extensions addressing Court Operations under the Exigent Circumstances Created by COVID-19 shall be entered as warranted, and that this Extension of Standing Order 2020-12 will expire no later than September 30, 2020.

DATED: August 17, 2020

Freda L. Wolfson
Hon. Freda L. Wolfson
U.S. Chief District Judge
District of New Jersey